

implication, keeping in mind, of course, that we have to put the prohibition in positively, that that implication could be impressed upon the Court of Appeals so that their decision would be reversed with respect to the bingo?

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: Yes, the way in which we sought to do it very simply was this: the lotteries that we were hoping would have the restraint by constitutional actions were lotteries as we understood them, those that had been in operation in Maryland in the days before the Constitution said no more; lotteries as they operate them today in New Hampshire, lotteries as they operate them today in the State of New York.

We have before us, and I would like the record to show, we have before us the opinion of the attorney general in 1935 which held that the State not only could not give a lottery grant, but likewise the State itself could not engage in lottery.

We accepted that as a law. We have before us a discussion of the subject of the church bingo and it was perfectly clear to us, and I repeat it for the record, we were making no effort whatsoever to include bingo as it is presently operated in Maryland within any lottery ban.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: Delegate Sherbow, it is not that aspect of it that bothers me. It is the reverse of that conclusion.

The reverse is I take it you made a positive effort to have it excluded and that's the thing that bothers me.

DELEGATE SHERBOW: Have what excluded?

DELEGATE GLEASON: Bingo.

DELEGATE SHERBOW: No, just the opposite, we exclude bingo from the definition of lottery. We are not excluding bingo from operating. If the legislature chooses in its wisdom to keep bingo within the present statute, we want this prohibition against lottery not to affect it.

THE CHAIRMAN: Delegate Sherbow, I think you misunderstood Delegate Gleason's question. I think he meant was your positive intention to exclude bingo from being within the purview of the word lottery. Is that your question, Delegate Gleason?

*(Delegate Gleason nodded his assent.)*

DELEGATE SHERBOW: That is correct.

THE CHAIRMAN: Further question, Delegate Gleason?

DELEGATE SHERBOW: That has been so upheld.

DELEGATE GLEASON: Don't you think we are getting on fairly dangerous ground here in attempting to in effect foreclose a judicial decision as to what a lottery is and is not by your discussion within the Committee that bingo should be excluded from a lottery? Suppose the State put on or authorized a bingo contest throughout the State. I take it by your definition that that would not be a lottery.

DELEGATE SHERBOW: What I am saying to you, Delegate Gleason, is simply this: that our definition of lottery is lottery as it is generally understood. We have before us two opinions. One by Judge Sachs of this county, the other by Judge Evans of this county, each in this particular case holding that bingo was not by definition lottery.

So far as we were concerned, we were accepting that definition. Bingo is not lottery. Now there is pending on appeal in the Court of Appeals that same question. If the Court of Appeals should decide that bingo is lottery, then, of course, this is another situation. All we are attempting to do is say by definition we do not include bingo in our minds with lottery.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: It is precisely the Court of Appeals decision that is bothering me with respect to your comment because if by your comment it can be impressed upon the Court of Appeals the Constitutional Convention drafters have excluded this from the definition it coerces their decision. We would be on safe ground, I think, if we leave it at what it has traditionally been and let the word stand for whatever it is interpreted by the courts.

DELEGATE SHERBOW: I would ask what were the discussions before us, what were their intentions? Delegate Gleason, after I suppose almost a lifetime in the courts and at the bar, I can assure you that there is not anything you or I are going to say that will coerce the Court of Appeals in any decision it will make. It will make it not on what we say or do here but on the briefs and records in the case then before it. That case presents a very narrow issue. I do not want to discuss the case because they may never get